

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

FERNANDO C. PUENTE §
VS. § CIVIL ACTION NO. 9:13cv126
WARDEN MUÑOZ, ET AL. §

MEMORANDUM OPINION AND ORDER

Plaintiff Fernando C. Puente, an inmate confined in the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this lawsuit pursuant to 42 U.S.C. § 1983 against several defendants.

Currently pending before the court is a motion (doc. no. 28) in which plaintiff request a preliminary injunction. Plaintiff states he has had difficulty receiving mail in a timely fashion, as well as difficulty sending out mail. In addition, plaintiff alleges a drawing was improperly confiscated.

Analysis

Requirements for Issuance of a Preliminary Injunction

A party seeking a preliminary injunction must establish the following elements: (1) there is a substantial likelihood the party will prevail on the merits; (2) a substantial threat exists that irreparable harm will result if the injunction is not granted; (3) the threatened injury outweighs the threatened harm to the defendants and (4) the granting of the restraining order will not disserve the public interest. *Clark v. Prichard*, 812 F.2d 991 (5th Cir. 1987); *Canal Authority of the State of Florida v. Callaway*, 489 F.2d 567 (5th Cir. 1974). Relief should be granted only if the

party has clearly carried the burden of persuasion as to all four elements. *Mississippi Power & Light v. United Gas Pipe Line*, 760 F.2d 618 (5th Cir. 1985).

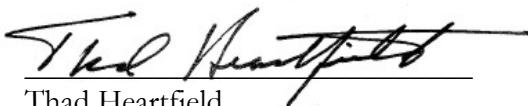
Application

After reviewing the file in this matter, it cannot be concluded that plaintiff has carried the burden of persuasion with respect to the first element listed above. Without expressing any opinion as to the merits of plaintiff's claims, the court is unable to conclude at this point in the proceedings that there is a substantial likelihood plaintiff will prevail on the merits of his claims. Accordingly, plaintiff is not entitled to preliminary injunctive relief.

ORDER

For the reasons set forth above, plaintiff's motion for preliminary injunction is **DENIED**.

SIGNED this the 2 day of September, 2014.



Thad Heartfield
United States District Judge